

Wolfe

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LISA LAMBERT,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No.
)	96-247
SUPERINTENDENT WILLIAM)	
WOLFE,)	
)	
Defendant.)	
-----)	
SYLVIA VASQUEZ,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No.
)	96-429
SUPERINTENDENT WILLIAM)	
WOLFE,)	
)	
Defendant.)	
-----)	
ROBIN PHILLIPS,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No.
)	98-59
SUPERINTENDENT WILLIAM)	
WOLFE,)	
)	
Defendant.)	

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COUNSEL PRESENT:

For the Plaintiffs:	Jere Krakoff, Esq.
For the Defendant:	Thomas F. Halloran, Esq. Senior Deputy Attorney General

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1 M. Wolanin - by Mr. Krakoff

2 Q. And what was the other name prior to
3 Office of Professional Responsibility?

4 A. Special Investigations.

5 Q. And I'm going to refer to it at all
6 times as OPR or the Office of Professional
7 Responsibility.

8 What is your specific job title within
9 that agency?

10 A. It's presently special investigator III.

11 Q. And when did you become a special
12 investigator III approximately?

13 A. That was sometime in the fall of '98.
14 Prior to that, I was a special investigator II.

15 Q. Going back how far?

16 A. To when I started.

17 Q. And when did you begin working for OPR?

18 A. February 14, 1994.

19 Q. Did you work with the Department of
20 Corrections prior to the 14th of February 1994?

21 A. No.

22 Q. Where were you employed when you began
23 to work -- prior to coming to work with the DOC?

24 A. I was a police officer for the
25 Blairsville Police Department, and I also --

1 M. Wolanin - by Mr. Krakoff

2 Q. For the who?

3 A. Blairsville Borough Police Department,
4 and I also had a business.

5 Q. Was that business associated with law
6 enforcement or security?

7 A. No, no, not at all.

8 Q. And how long had you been a police
9 officer with Blairsville?

10 A. Approximately five years or so.

11 Q. Now, where is the OPR office located?

12 A. The main office is located in Camp Hill,
13 Pennsylvania.

14 Q. Are there regional offices or --

15 A. We have one regional office located here
16 in Pittsburgh.

17 Q. And where do you work out of?

18 A. Primarily out of Pittsburgh, even though
19 I'm -- I float back and forth.

20 Q. You float back and forth between
21 Pittsburgh and Camp Hill?

22 A. Yeah, primarily in Pittsburgh, though.
23 For meetings and what have you --

24 Q. Right.

25 A. -- I go back. Other than that, I'm

1 M. Wolanin - by Mr. Krakoff

2 a prison staff aimed at an inmate?

3 A. Sure.

4 Q. It could also include alleged or
5 possible misconduct from one inmate to another
6 inmate? Not generally?

7 A. Not generally, not generally, no.

8 Q. So the two primary scenarios would be
9 possible misconduct on the part of a staff
10 member at an inmate, misconduct of a staff
11 member to another staff member?

12 A. That would be possible.

13 Q. Or an inmate to a staff member?

14 A. Correct.

15 Q. And what are your basic functions, and
16 what were they -- when I ask that, what were
17 they during the time period that this
18 deposition's focusing on?

19 A. Investigate complaints within the DOC,
20 whatever may surface.

21 Q. And as a general rule, what kinds of
22 activities do you utilize to investigate
23 complaints? By that, I mean interviews, et
24 cetera. I'm speaking in generic terms. I'm not
25 asking about how you investigated any particular

1 M. Wolanin - by Mr. Krakoff
2 examinations in that context, was it for
3 purposes of use in court, or was it for some
4 other purpose that you were requesting it?

5 MR. HALLORAN: Let me object. It
6 calls for a legal conclusion from the witness.

7 MR. KRAKOFF: Well, I'm just
8 asking --

9 Q. Are you taking that polygraph for use in
10 court, or are you taking the polygraph for use
11 in administrative proceedings, possible
12 administrative proceedings?

13 A. It's used as a tool for our
14 investigations.

15 Q. To determine credibility or to assist
16 you in determining --

17 A. To assist us, to assist us in our
18 investigation. I think I'd probably say it that
19 way.

20 Q. Now, is one purpose of an investigation
21 of possible abuse or misconduct on the part of a
22 staff member against an inmate to determine
23 whether there might have been a violation of the
24 Department's code of ethics? Is that one
25 purpose that might be involved in a case?

1 M. Wolanin - by Mr. Krakoff

2 A. Correct.

3 Q. Is another purpose to determine whether
4 there might be grounds for making a criminal
5 referral for prosecution in the criminal courts?

6 A. If it reached to that level.

7 Q. Right. Other than those two purposes,
8 the first which would be administrative and the
9 other which would be, I guess I can call it,
10 judicial, is there any other purpose that your
11 investigation can be used for in connection with
12 alleged or possible misconduct by a staff member
13 toward an inmate?

14 A. Could you repeat that?

15 Q. I think you said that one objective of
16 an investigation could be to determine whether
17 there's been a violation of the code of ethics,
18 correct?

19 A. Correct, correct.

20 Q. And the other, if it rises to that
21 level, might be to see whether there's a basis
22 for referring a matter for criminal prosecution,
23 correct?

24 A. Correct.

25 Q. Is there any other general objective

1 M. Wolanin - by Mr. Krakoff
2 that might be served by an investigation other
3 than those two?

4 A. Or to find out that the facts are
5 unsubstantiated.

6 Q. Now, during that period prior to April
7 of 1996, were you assigned to investigate any
8 particular prison or prisons, clusters of
9 prisons, or might you investigate any of the
10 prisons in the Department?

11 A. Statewide.

12 Q. Was SCI-Cambridge Springs among the
13 prisons after it opened that you had
14 jurisdiction over to investigate?

15 A. It was. It was one of many.

16 Q. Right. In fact, there are now in excess
17 of 20-something prisons, correct?

18 A. That would be correct.

19 Q. And at that time in 1994 when you began
20 to work at the Department, do you recall
21 approximately how many prisons there were?

22 A. Probably 20, 20 or so or in excess of
23 20. There had been several that opened up.

24 Q. Right. Certainly Cambridge Springs was
25 not the sole focus of your investigations; is

1 M. Wolanin - by Mr. Krakoff
2 who was certified?

3 A. I believe Robinson may have been, but I
4 don't know for sure.

5 Q. Are you aware of -- first of all, did
6 you conduct some investigations of alleged
7 misconduct on the part of Cambridge Springs'
8 staff members toward Cambridge Springs' inmates
9 during this time period?

10 A. Did I conduct?

11 Q. Investigations.

12 A. Yes.

13 Q. And to the best of your recollection,
14 did any of those other names that you mentioned
15 conduct investigations of that sort?

16 MR. HALLORAN: Do you mean at
17 Cambridge Springs?

18 MR. KRAKOFF: At Cambridge
19 Springs.

20 A. I know Dodson was involved. Whether the
21 others were, I cannot recall specifically.

22 Q. Well, let me represent to you, and this
23 is not your testimony, but let me represent to
24 you that of the documents that I received, I saw
25 your name on -- whenever there is a report

1 M. Wolanin - by Mr. Krakoff
2 issued from OPR, you were the person who issued
3 the report, and I did see some reference to Mr.
4 Dodson administering polygraphs.

5 A. Okay.

6 Q. But I didn't see any other of the names
7 that you've mentioned on any of those reports.
8 Is there some reason or some explanation that
9 you have as to why you appear to be the person
10 who conducted if not all of the investigations
11 at least most of them?

12 A. An explanation of why I did most of
13 them?

14 Q. Yes.

15 A. It's probably the -- the best
16 explanation would be I'm from Western
17 Pennsylvania. The other individuals are from
18 the -- Harrisburg or Eastern Pennsylvania, and
19 it was easier for me to do them because I was
20 here.

21 Q. So it was logistical?

22 A. Correct.

23 Q. Now, what training, if any, did you
24 receive either by -- from the Department of
25 Corrections or through arrangements made by the

1 M. Wolanin - by Mr. Krakoff
2 employee misconduct toward inmates is
3 investigated by prison-level staff without being
4 referred to OPR for investigation?

5 A. Yes. That would be correct.

6 Q. Is there a written policy that you're
7 aware of, either within OPR specifically or the
8 Department of Corrections more generally, a
9 written policy, that governs whether a case
10 should be investigated by OPR or whether it can
11 be investigated solely at -- by prison-level
12 officials?

13 A. There is no written policy that I am
14 aware of.

15 Q. Are you aware of any unwritten policy
16 where criteria exists or guidelines exist as to
17 when a case of possible staff-against-inmate
18 misconduct should be referred to OPR or when it
19 should be -- or when an investigation can be
20 conducted at the prison level by prison-level
21 employees? Is there a practice -- was there a
22 practice during the time period that we're
23 concerned with?

24 A. There's no unwritten policy that I'm
25 aware of. It's just on the institution.

1 M. Wolanin - by Mr. Krakoff

2 Q. Their judgment?

3 A. It's their judgment or depending on what
4 level the offense may rise to.

5 Q. Now, how do the OPR referrals ordinarily
6 come into the agency?

7 A. How we receive complaints or referrals?

8 Q. Referrals. ,

9 A. Referrals usually -- will usually come
10 through the superintendent, through a regional
11 deputy or through the commissioner to our
12 office.

13 Q. You have to receive a request, though,
14 by either the superintendent or by the regional
15 deputy commissioner or the superintendent; is
16 that right? There has to be a --

17 A. Yeah, yeah. We just don't go in on our
18 own.

19 Q. Right. So it would come generally from
20 one of those three sources?

21 A. Right.

22 Q. Are referrals to OPR in the form of
23 something in writing, or are they orally made?

24 A. Either.

25 Q. Either. And I noted as I went through

1 M. Wolanin - by Mr. Krakoff

2 investigations you were involved in?

3 A. I can't say that I recall that.

4 Q. Now, I asked you earlier about how
5 referrals come in. You said that you all don't
6 just reach down and make your own referral. It
7 either comes from the superintendent or from the
8 regional commissioner or from the
9 superintendent.

10 A. It comes through a channel.

11 Q. Right. And do you know who has the
12 authority to decide whether an investigation
13 will be conducted? Who makes that decision?

14 A. Who makes the decision to conduct an
15 investigation?

16 Q. Right.

17 A. It could either be the director of OPR.
18 It could be the regional deputy. It could be
19 the commissioner. It could be a number of
20 people.

21 Q. Now, let me focus you on investigations
22 that are done on the -- by staff level first now
23 as opposed to OPR. Is there any requirement,
24 either written or unwritten, that you are aware
25 of that OPR be informed of the fact that an

1 M. Wolanin - by Mr. Krakoff
2 investigation is being conducted by prison-level
3 personnel?

4 A. Is there any requirement that we be
5 informed?

6 Q. Yes.

7 A. Not that I'm aware of.

8 Q. And that would include cases of alleged
9 staff against inmate; is that correct?

10 A. Yes.

11 Q. Now, if an investigation of possible
12 staff-against-inmate misconduct is conducted, is
13 there any requirement that OPR be informed of
14 the information gathered in such an
15 investigation by prison-level staff?

16 A. Could you repeat that?

17 Q. Sure. Are you aware of any policy,
18 either written or unwritten, that where
19 prison-level staff conduct an investigation of
20 alleged misconduct against an inmate that the
21 information generated during that investigation
22 be shared with OPR?

23 A. I know there's an abuse policy. I'm not
24 in the abuse unit. So I can't really say what
25 the requirements are.

1 M. Wolanin - by Mr. Krakoff

2 Q. Yes, yes.

3 A. Other than that, nothing that I'm aware
4 of.

5 Q. By abuse, are -- what do you mean by
6 abuse?

7 A. Alleged assaults.

8 Q. If I can use a word, are you talking
9 about excessive force?

10 A. Excessive force.

11 Q. There's a --

12 MR. KRAKOFF: Oh, go ahead.

13 (Counsel confers with witness.)

14 Q. Let me get specific.

15 MR. HALLORAN: Jere, he wants to
16 add something.

17 Q. I'm sorry.

18 A. Yeah. If there's an alleged complaint
19 at the institution that there's possible
20 criminal implications, it comes to us
21 automatically because the institution --
22 institutional staff do not have law enforcement
23 powers, per se, and our office does.

24 Q. So anything that might rise to a level
25 of criminal misconduct has to be referred to

1 M. Wolanin - by Mr. Krakoff

2 OPR, correct?

3 A. Correct.

4 Q. At least it has to -- does it have to be
5 referred for an investigation by OPR, or do you
6 simply have to be told that they're
7 investigating it at the local level?

8 A. Basically it's referred to us possibly
9 even for an assist to investigate in conjunction
10 with the institution.

11 Q. Yes. But you -- are you saying you have
12 to be at least told about it if it involves
13 possible criminal misbehavior, or are you saying
14 that you actually have to participate in that
15 investigation? I'm a little bit confused.

16 MR. HALLORAN: I don't think he
17 said either one. I think he said in the course
18 of the investigation if the criminal -- if
19 possible criminal conduct comes to light.

20 MR. KRAKOFF: Yes.

21 Q. What happens then? You're told about
22 it, or you're brought into the investigation?

23 A. We're brought into it.

24 (Counsel confers with witness.)

25 Q. Let me give you a definition so that

1 M. Wolanin - by Mr. Krakoff

2 the definition I gave you?

3 A. Yeah.

4 Q. Now, let me focus specifically on
5 whether you are aware of any written policy or
6 unwritten policy, which I can also call a
7 practice, where investigations involving alleged
8 sexual misconduct of the nature I described are
9 conducted on the local level by prison-level
10 staff. Are you aware of any requirement that
11 OPR be told that an investigation was being
12 conducted at the prison level?

13 A. Is there any requirement that OPR be
14 told --

15 Q. Yes.

16 A. -- of an investigation of this nature?

17 Q. Yes.

18 MR. HALLORAN: You mean the --

19 MR. KRAKOFF: The initiation of an
20 investigation.

21 A. There's no requirement that I'm aware
22 of.

23 Q. And are you aware of any requirement
24 that information gathered during such an
25 investigation be shared with or brought to the

1 M. Wolanin - by Mr. Krakoff

2 attention of OPR?

3 A. Nothing that I'm aware of.

4 Q. And --

5 MR. HALLORAN: You mean other than
6 he's already answered?

7 MR. KRAKOFF: Well, I think what
8 he said was that if there's a criminal --

9 MR. HALLORAN: Right, yes.

10 THE WITNESS: Criminality.

11 MR. KRAKOFF: If they think it
12 rises to criminality.

13 THE WITNESS: Criminality.

14 Q. At that point, you have to be told about
15 it, correct?

16 A. Because we have to be involved in that.

17 Q. Right. I understand. And then are you
18 aware of any written policy or unwritten policy
19 or practice in which findings in such an
20 investigation have to be shared with OPR,
21 findings of an investigation conducted by
22 prison-level staff be shared with the OPR?

23 A. Only if it rises to the level of
24 criminality.

25 Q. Now, have you ever investigated any

1 M. Wolanin - by Mr. Krakoff

2 instances of possible staff-against-inmate
3 misconduct of a sexual nature at Cambridge
4 Springs?

5 A. Have I investigated it?

6 Q. Yes.

7 A. Sure.

8 Q. Before I get into that, let me clarify
9 something. I think you said a while earlier
10 that there is a special unit within OPR to
11 investigate allegations of possible excessive
12 use of physical force against inmates; is that
13 correct?

14 A. Yeah. Now there is. Back then,
15 everybody did everything to clarify that.

16 Q. When did that special unit start?

17 A. In recent times.

18 Q. Within the last year or so?

19 A. Yeah. That would be correct.

20 Q. Before that, there was no special unit
21 to investigate excessive use of force
22 complaints; is that correct?

23 A. Everybody did everything.

24 Q. What I'd like you to do is to tell me by
25 either the name of the inmate or the name of the

1 M. Wolanin - by Mr. Krakoff
2 staff member or members involved each of the
3 investigations of alleged or possible sexual
4 misconduct, staff against inmate, that you were
5 involved in during the time period that we're
6 talking about between February of '94 and
7 through April of '96.

8 A. Do you want me to tell you each of the
9 investigations?

10 Q. Yes. I'd like -- I want to identify --
11 I want you to -- I'm not going to ask you to
12 tell me the details of the investigation.

13 A. Yeah.

14 Q. I'm trying to create a list so that I'll
15 know what to come back with.

16 MR. HALLORAN: At Cambridge
17 Springs?

18 MR. KRAKOFF: Oh, yes, yes.

19 Q. All of these questions that I'm asking
20 you about today are about Cambridge Springs.

21 A. I'll try. I can't -- I might miss some.

22 Q. No. I just want you to -- I'll tell you
23 what, and it might be beneficial. I'm going to
24 take about a three-minute break, three or four
25 minutes, so that you can think about them now

1 M. Wolanin - by Mr. Krakoff
2 rather than me asking you to tell them to me
3 right this second. Okay? Think for three or
4 four minutes, and then I'd like you to tell me
5 those that you recall, and let me do it this way
6 so that -- because it may be hard for you to
7 separate what was in April of 1996 or what was
8 in May of 1996.

9 A. That's true.

10 Q. So let me go through 1996, okay, through
11 December of '96, so that we're talking about the
12 day that you started through the rest of '94,
13 through all of '95 and all of '96. Okay?

14 A. Okay.

15 Q. And that's what I'd like you to do, and
16 I'll be back in a minute, and you can write them
17 down so -- you know, as you think of them so
18 that --

19 (A brief recess was taken.)

20 A. Okay. Would you repeat what the
21 question was?

22 Q. Yes.

23 MR. HALLORAN: No. You don't have
24 to repeat it.

25 A. Okay. Do you want the names?

1 M. Wolanin - by Mr. Krakoff

2 Q. Yes.

3 A. The ones that I can recall, an
4 individual by the name of Zimmerman.

5 Q. Yes.

6 A. Paul Walton, Jim Eicher. Martin Miller
7 was in that time frame. Whether it was prior to
8 '96 or '97, I can't recall. Jim Merry and an
9 individual by the name of Hammer or Hammers I
10 was briefly involved in, which he resigned
11 before I got to him. So it was minimal. Any --
12 if there's anybody else, I cannot recall right
13 now.

14 Q. Stones, either Stone or Stones, does
15 that ring a bell?

16 A. Mike Stone?

17 Q. Right.

18 A. I can't recall the specifics. I believe
19 it was unsub -- if I can recall, I might be
20 wrong, I think it was unsubstantiated. He was
21 brought back to work. What happened --

22 Q. What we'll do is we'll go through -- I'm
23 going to go through most of these with you and
24 ask you some specific questions, or those --
25 some of those documents might assist you in

1 M. Wolanin - by Mr. Krakoff

2 alleged victim, not a situation where you were
3 investigating to see if an inmate had harmed a
4 staff member or property.

5 A. Okay. That's fine.

6 Q. Do you understand that?

7 A. Yes.

8 Q. So -- and I think your answer -- would
9 your answer hold that where the inmates were the
10 possible victims of abuse, it was not your
11 practice to mirandize them, but there might have
12 been an occasion that you did?

13 A. Where the inmates were a victim, they
14 were not mirandized.

15 Q. Yes.

16 MR. HALLORAN: Did you include
17 witness in that question?

18 MR. KRAKOFF: Yes, both witnesses
19 and possible victims.

20 Q. Is that true? You did not mirandize?

21 A. Correct. That's --

22 Q. Now, would there have been in your
23 opinion as an investigator a negative
24 consequence, a potential negative consequence,
25 to mirandizing either the witnesses, the inmate

1 M. Wolanin - by Mr. Krakoff
2 investigations that you conducted, like in
3 Lambert, in Phillips and Vasquez, meaning the
4 Miller case that Phillips and Vasquez were
5 involved in, the Eicher case that Lambert was
6 involved in and the other cases that you
7 investigated, was it your practice not to
8 mirandize the inmates that you interviewed?

9 A. The inmates?

10 Q. Yes.

11 A. That would be correct.

12 Q. Do you have a recollection of ever
13 mirandizing any of the inmates that you
14 interviewed? And that would include both the
15 possible victim of the guard-on-inmate abuse or
16 the -- just witnesses who might provide you
17 information. Was it your practice not to
18 mirandize them?

19 A. I cannot recall mirandizing, you know,
20 any inmates, not to say that it hadn't been
21 done, but I cannot recall specifically any that
22 comes to mind that I mirandized.

23 Q. Yes. And, of course, I'm distinguishing
24 that from a situation where you're -- we're only
25 talking about situations where the inmate was an

1 M. Wolanin - by Mr. Krakoff
2 witnesses, or the possible inmate victim? Would
3 there have been a negative -- a downside to
4 mirandizing them?

5 A. The potential is there. When you
6 mirandize them, you advise them of their
7 rights. At that point, they don't have to speak
8 to us.

9 Q. Right.

10 A. Without an attorney.

11 Q. Right. So there is a -- there was a
12 possibility, then, that if you mirandize
13 witnesses that the witnesses are not going to
14 talk to you, correct?

15 A. The potential is there. They are not
16 accused, but the potential is there.

17 Q. But so that this is a clear answer, is
18 it your testimony --

19 MR. HALLORAN: I'm going to
20 object. The answer is clear.

21 MR. KRAKOFF: Is it clear? What
22 is it? The potential of what? That's what I'm
23 not clear on when he said the potential is
24 there.

25 MR. HALLORAN: That they would

1 M. Wolanin - by Mr. Krakoff
2 exercise their right to remain silent.

3 Q. Is that what you meant?

4 A. Yeah, that's what I meant.

5 Q. Did you ever suggest to either Captain
6 Bartlett or to Captain Lazenby that they should
7 mirandize witnesses or potential victims in
8 cases of this sort?

9 A. Not that I can recall.

10 Q. Did they ever ask you whether you
11 believed that they should mirandize either
12 witness -- an inmate witness or a possible
13 inmate victim?

14 A. Not that I can recall, sir.

15 Q. And was there an OPR policy, either
16 written or unwritten, that addressed the
17 question of whether or not an inmate victim or
18 an inmate witness should be mirandized in the
19 context of an investigation? Was there any
20 policy?

21 A. Not that I'm aware of.

22 (Counsel confers with witness.)

23 MR. KRAKOFF: Do you have
24 something to add or --

25 MR. HALLORAN: No.

1 M. Wolanin - by Mr. Krakoff

2 before that?

3 A. Nobody knew.

4 Q. Did you ask any of the inmates when the
5 room had been cleared out?

6 A. I don't recall if I did or not, no.

7 Q. Now, let me refer you to paragraph 30
8 which is on page 74 of the same exhibit, Exhibit
9 127.

10 A. Okay.

11 Q. Do you see that?

12 A. Yep.

13 Q. In further -- it reads, in further
14 rebuttal, the Department presented the testimony
15 of Carmel Bynum. Ms. Bynum currently lives in
16 McKees Rocks and works as a data processor with
17 File Express. She testified that she was an
18 inmate at SCI-Cambridge Springs from April 1992
19 until October 1993. Ms. Bynum testified that
20 she worked on the electrical crew and that her
21 supervisor was Ronald Randolph. In August 1993,
22 she was helping to rewire the Alliance
23 Building. On one particular day in August 1993,
24 appellant, and that would be Zimmerman, was
25 supervising her during the rewiring of the

1 M. Wolanin - by Mr. Krakoff

2 Alliance Building. She testified that at one
3 point, he directed her to the corner of the
4 attic in order to show her how to run the wire
5 in the attic, and after he showed her, he moved
6 very close to her and made a pass at her. Ms.
7 Bynum testified that after appellant had made a
8 pass at her, he told her that if things were
9 only different, he would like to take her to
10 bed. Ms. Bynum also testified that after this
11 incident whenever she walked past him, he would
12 emit a sexual groan, and then it goes on from
13 there, and there's -- and it goes on two
14 sentences later to say, for the record, Ms.
15 Bynum's -- her hair is blonde.

16 Now, was there some information that you
17 had received that Zimmerman had focused on
18 blonde inmates to prey upon?

19 A. I believe all of his inmate clerks were
20 blonde.

21 Q. Yes. And did you relate the information
22 about Bynum's hair to somebody?

23 MR. HALLORAN: I'm going to
24 object. There's no -- Bynum's information
25 refers to the instance that occurred in 1992 and

1 M. Wolanin - by Mr. Krakoff

2 If I can recall back to the criminal
3 trial that we went through, I believe he was
4 convicted on -- I don't have the transcript in
5 front of me. So I don't --

6 Q. I'm not asking what he was convicted
7 of. I'm asking you what conclusion you reached
8 as of the time that you generated this report.

9 A. That the acts occurred.

10 Q. And what were the acts that you believed
11 occurred?

12 A. Emma basically took -- or Walton took
13 Emma Gleckl into a cooler at SCI-Cambridge
14 Springs and intimidated her into performing oral
15 sex on him.

16 Q. And did he also -- and that occurred on
17 several occasions; is that correct?

18 A. Correct.

19 Q. And did he -- was there also -- did you
20 also conclude that he had fondled her?

21 A. Yes.

22 Q. And that he kissed her breasts?

23 A. Correct.

24 Q. Now, when conducting this investigation,
25 did you focus at all on the issue of whether

1 M. Wolanin - by Mr. Krakoff

2 the inmate?

3 A. In determining a code of ethics
4 violation?

5 Q. Yes.

6 A. No. It just was an issue of
7 fraternization period.

8 Q. And in terms of -- and in some of the --
9 in the Walton case, you recommended the filing
10 of criminal charges, didn't you? Didn't you
11 sign a probable cause?

12 A. Yes, I did.

13 Q. Is that -- can amount to recommending
14 that the criminal process at least be initiated
15 by the DOC?

16 A. Correct.

17 Q. And in filing these criminal -- before
18 signing the probable cause, did you consider
19 whether or not what occurred to Gleckl was
20 consensual on her part?

21 A. To reconsider if it was consensual?

22 MR. HALLORAN: I'm going to object
23 to the form of the question.

24 MR. KRAKOFF: I'm asking whether
25 that's an issue.

1 M. Wolanin - by Mr. Krakoff

2 Q. When you were conducting your
3 investigations, do you work under a premise one
4 way or another whether it is possible for an
5 inmate to actually give consent to sexual
6 activity with an officer -- with a staff member?

7 A. No. An inmate has -- if she's
8 incarcerated or he's incarcerated, consent does
9 not enter the picture.

10 Q. Why not?

11 A. Because they're incarcerated, and that's
12 the way the section read.

13 Q. Does the --

14 A. The inmate's incapable of consenting.

15 Q. Now, let me take you back to Exhibit 29
16 of Volume I. That's an affidavit of probable
17 cause?

18 A. That would be correct.

19 Q. And if you can review that and tell me
20 if that was your -- the affidavit that you
21 executed in connection with the Walton/Gleckl
22 matter.

23 A. It was.

24 Q. And as a matter of OPR policy, did you
25 have to obtain somebody's authorization to

1 M. Wolanin - by Mr. Krakoff

2 A. Correct.

3 Q. And you also -- referring to Exhibit 30,
4 you also signed the criminal complaint?

5 A. Correct.

6 Q. Now, during -- in the course of the
7 investigation of Paul Walton, did you make any
8 effort to see whether his sexual activities in
9 relation to inmates included any inmates in
10 addition to Emma Gleckl, or was your
11 investigation limited to Emma Gleckl?

12 A. I think we focused just on Emma Gleckl.

13 Q. Now, either before you submitted the
14 report, the special investigation report, or
15 after, did you have a discussion with
16 Superintendent Wolfe about the substance of the
17 report?

18 A. Did I, no.

19 Q. And you don't know whether this was
20 distributed to Superintendent Wolfe or not; is
21 that right?

22 A. I cannot say that. I didn't.

23 Q. You would prepare the report and, what,
24 submit it to --

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25 A. Vaughn Davis.

1 M. Wolanin - by Mr. Krakoff

2 Q. And then where it would go from there,
3 only Davis would know?

4 A. Right. That's beyond my control.

5 Q. And where did the sex with Emma Gleckl
6 occur? Where in the institution did you
7 determine that it occurred?

8 A. Over various instances, it occurred in
9 different locations. One was in the -- a dish
10 room. One was in a laundry room and then in a
11 cooler.

12 Q. Was that a walk-in --

13 A. That's correct.

14 Q. -- cooler?

15 A. Yeah.

16 Q. And Gleckl, was she mirandized by you?
17 You didn't mirandize her, did you?

18 A. No.

19 Q. Now, did you go to that cooler? Did you
20 actually go down into the cooler and look into
21 it?

22 A. Uh-huh, sure, yes.

23 Q. And where were the other areas where you
24 learned that there was sexual activity?

25 A. A dish room and somewhere else.

1 M. Wolanin - by Mr. Krakoff

2 Q. You don't recall where?

3 A. It's in the report. I don't recall
4 without me reviewing the whole report.

5 Q. Do you want to look at the report and
6 see if you can find that?

7 A. In the laundry room.

8 Q. Now, did you determine whether there was
9 any sort of a camera inside that walk-in cooler?

10 A. No, there wasn't.

11 Q. So unless somebody was actually inside
12 of the cooler, if the door was closed, couldn't
13 -- somebody from the outside couldn't see what
14 was going on in the inside?

15 A. Correct.

16 Q. Now, after the discovery that there had
17 been sexual activity in a cooler, did you or, to
18 your knowledge, anybody at OPR recommend that a
19 surveillance camera be installed in the cooler?

20 A. No, not that I'm aware of.

21 Q. Did OPR have any role in making
22 recommendations with respect to the improvement
23 of security in relation to its investigations?

24 A. I'm sure the director could have made
25 suggestions.

1 M. Wolanin - by Mr. Krakoff

2 special investigations --

3 A. Correct.

4 Q. -- office assistance? And this notes
5 that "on March 10, 1995, a preliminary
6 investigation was started on COT Richard Hammers
7 in regard to sexual contact with an inmate," and
8 it goes on from there, and then --

9 MR. HALLORAN: Can we indicate
10 that as a result of the preliminary
11 investigation, he was suspended pending a final
12 outcome?

13 MR. KRAKOFF: Yes, yes, sure. I'm
14 not trying to hide that. I'm -- that wasn't my
15 gear.

16 MR. HALLORAN: Oh, I know. I just
17 wanted to state that.

18 MR. KRAKOFF: Right.

19 Q. So that started on the 10th. And then
20 on page nine of this document, which is part of
21 your report --

22 A. Okay.

23 Q. -- this notes, this investigation was
24 authorized by Vaughn Davis on March 16th,
25 correct?

1 M. Wolanin - by Mr. Krakoff

2 A. Okay. That was the standard format.

3 Q. Right. And then -- so you would have --
4 according to your summary of the interviews, you
5 interviewed Maysonet, Elizabeth Maysonet, on the
6 20th of March 1995, correct?

7 A. Right.

8 Q. And then she relates what occurred,
9 correct?

10 A. Correct.

11 Q. According to Maysonet, on the 17th of
12 January 1995 or thereabouts, she was in a room
13 in Kosmor Hall, and at some point, Hammers leans
14 into the room French-kissing her, feeling her
15 butt, thighs and breasts. She did not want him
16 to do this, according to her; is that correct?

17 A. Correct.

18 Q. And then on February 7, 1995 while in
19 dietary, and dietary means the food service
20 area?

21 A. That's correct.

22 Q. With her sister, Officer Hammers came
23 in, saw her and motioned for her to meet him.
24 They met in the inmate bathroom. Hammers was
25 crouching on the toilet, and they French-kissed.

1 M. Wolanin - by Mr. Krakoff

2 Hammers put his right hand down the front of her
3 pants and inserted his fingers into her vagina,
4 and then on the 16th, according to this, they
5 again kissed.

6 A. That's according to Maysonet.

7 Q. Yes. Well, did you draw -- did you
8 reach any conclusions with respect to what
9 occurred here?

10 A. Basically in the midst of this
11 investigation, Hammers resigned, and he refused
12 to be interviewed, and the case was -- due to
13 him resigning, that was sufficient for the DOC,
14 and it went no further; so actually no
15 conclusion whether he did these things or not.

16 Q. Was reached?

17 A. Right. Okay.

18 Q. Didn't you actually get to the point of
19 consulting with the District Attorney's Office
20 in Crawford County about the possibility of
21 bringing criminal charges?

22 A. Yeah. We identified a couple of
23 criminal charges, aggravated indecent assault
24 and indecent assault, under Subsection (a)(5) or
25 5, which indicates that the Maysonets were in

1 M. Wolanin - by Mr. Krakoff

2 He had already -- I believe he resigned.

3 Q. Do you know whether that had any -- his
4 resignation had anything to do with allegations
5 that he had been involved in sexual misconduct
6 with an inmate?

7 A. I'm not aware of that.

8 Q. Does OPR take the position one way or
9 another with respect to when staff members
10 resign due to allegations of sexual misconduct
11 whether other members of the staff should be
12 told about why their resignation was occurring?

13 A. Do we get involved in that?

14 Q. Yes.

15 A. No. I don't.

16 Q. Does OPR have a position with respect to
17 whether that information should be made known to
18 the staff?

19 A. I don't believe. We don't have the
20 position of going out and telling people what
21 the guy --

22 Q. Resigned for?

23 A. -- resigned for or whatever. We don't
24 do that. We try to maintain confidentiality.

25 Q. Now, let me refer you to Exhibit 132.

1 M. Wolanin - by Mr. Krakoff
2 relationship of -- between CO Lawton and
3 Skipper?

4 A. The only involvement that myself or my
5 office had was obtaining phone records regarding
6 the CO. Did I ever talk to Skipper? I don't
7 know her. That's our only involvement.

8 Q. And what were those phone records about?

9 A. Skipper was allegedly making collect
10 phone calls from the institution to this --

11 Q. Officer?

12 A. Yes, this officer's location or house or
13 whatever it was at that time.

14 Q. Exhibit 134, let's -- well, before we
15 get to that, I want to ask you about another
16 matter. It's in the first volume. Exhibit 27,
17 which the first page of it is your report in
18 connection with the investigation of James
19 Eicher, the complainant was Lisa Lambert. And
20 if you turn to page 15, which is the first
21 attachment to your report, do you see that?

22 A. Correct. Got it.

23 Q. Now, do you recall where you received
24 this attachment from or from whom you received
25 it?

1 M. Wolanin - by Mr. Krakoff

2 A. I believe originally I received it by
3 way of Lazenby.

4 Q. Do you know who wrote it, prepared this
5 document? Were you told who prepared this
6 document?

7 A. I believe another CO I, I can't recall
8 who it was, or CO sergeant or --

9 Q. Now, you'll see in here -- and I'm not
10 going to go through all of these, but you'll see
11 the -- there are a number of staff members who
12 allegedly had physical contact with either Lisa
13 Lambert or other inmates at Cambridge Springs,
14 one in -- in addition to Eicher, there's
15 Montejo, M-O-N-T-E-A-O -- J-O, Officer Merry,
16 and that one goes back to late 1992 into 1993;
17 CO Rogers, CO Coffee and others. Even CO Beck
18 was mentioned in connection with an inmate by
19 the name of DiBello (phonetic), and, of course,
20 these are allegations.

21 A. Right.

22 Q. But did you undertake to investigate any
23 of these allegations?

24 A. Some we already looked into. The
25 institution had the same information.

1 M. Wolanin - by Mr. Krakoff

2 Q. Right.

3 A. We did not look into anything on our
4 own.

5 Q. Did anybody at the institution,
6 including but not limited to Wolfe, Kormanic and
7 Utz, ask you to investigate -- ask OPR generally
8 or you specifically to investigate these various
9 allegations contained in Attachment 1 of your
10 report?

11 MR. HALLORAN: You mean other than
12 the ones they've already investigated?

13 MR. KRAKOFF: That's right.

14 A. Did anybody come to me and specifically
15 say look into this?

16 Q. Yes.

17 A. No. They didn't do it to me.

18 Q. Did they do it to anybody, to your
19 knowledge, at OPR?

20 A. I can't -- I don't know. I can't answer
21 that.

22 Q. Did anybody at OPR say to you I want you
23 to investigate the allegations that are
24 contained in Attachment 1 of your report?

25 A. Eicher, that's how this originally came

1 M. Wolanin - by Mr. Krakoff
2 about. Any of the other ones, I can't recall.
3 Jim Merry was already looked into.

4 Q. Was that Merry going back to 1992/'93 or
5 a more recent Jim Merry?

6 A. That had to be more recent Jim Merry
7 because the Merry was in '94/'95 with Ms.
8 Maysonet.

9 Q. Right, right. So it wasn't this one?

10 A. That's not that one.

11 Q. Right.

12 A. And I believe Merry was already gone
13 when we had this paper.

14 Q. What about Rogers? Did anybody ask you
15 to look into Rogers?

16 A. When we got this document, he was
17 already out of Cambridge Springs.

18 Q. Where was he?

19 A. Another state institution somewhere.

20 Q. In Pennsylvania?

21 A. In Pennsylvania.

22 Q. Did you -- do you know whether anybody
23 was asked to investigate Rogers at that other
24 institution?

25 A. I don't know.

1 M. Wolanin - by Mr. Krakoff

2 Q. But you didn't investigate anything at
3 Cambridge Springs relative to allegations
4 against Rogers; is that correct?

5 A. No, I did not.

6 Q. And then Coffee, did anybody ask you to
7 investigate Coffee?

8 A. No, not myself.

9 Q. Are -- and that included anybody at
10 Cambridge Springs or at OPR saying to you we
11 want you to investigate this?

12 A. No. Nobody at Cambridge Springs would
13 come directly to me.

14 Q. And nobody at your office, meaning
15 Vaughn Davis or anybody else at your office,
16 asked you to investigate that; is that correct?

17 A. Correct.

18 Q. And can -- is the same true with respect
19 to the others; Schmitt, Beck, Stewart and Young?

20 A. Yeah.

21 Q. And Free?

22 A. Correct.

23 Q. Now, in terms of Eicher, you said you
24 already did investigate Eicher by the time you
25 issued this report, correct?

1 M. Wolanin - by Mr. Krakoff

2 A. This was part of Eicher's report, I
3 believe.

4 Q. Right, right. Now, did you investigate
5 whether Eicher had any sort of physical contact
6 with an inmate by the name of E. Jones in early
7 1993?

8 A. Did I do it, no, I did not.

9 Q. Did anybody ask you to?

10 A. No.

11 Q. Did you investigate Eicher to see
12 whether he had had any sort of improper contact
13 with Elizabeth Maysonet and Hilda Maysonet in
14 the autumn of '93?

15 A. Did we -- did our office look into
16 that?

17 Q. Yes.

18 A. No.

19 Q. Were you asked to?

20 A. No, I was not.

21 Q. What about allegations that Eicher had
22 had contact with an Inmate P. Hoover in late '93
23 in the field house, at the yard and in the
24 basement of Curie Hall?

25 A. I didn't look into that.

1 M. Wolanin - by Mr. Krakoff

2 Q. Did anybody ask you to?

3 A. No.

4 Q. Why didn't you investigate to see
5 whether Eicher had as alleged inappropriate
6 contact with the Maysonets, with Hoover, with
7 the Maysonets and Hoover?

8 A. I was never given a case in that
9 respect.

10 Q. But you were given a document that said
11 that Eicher allegedly had been involved in
12 inappropriate contact with these other women,
13 the two Maysonets and Hoover, correct?

14 A. Yeah, because it's part of the report.

15 Q. Right. And my question is, why didn't
16 you investigate to see whether Eicher had been
17 involved with those other inmates?

18 A. I don't initiate investigations on my
19 own.

20 Q. Did you go to anybody, though, at OPR or
21 at the prison level to say do you want me to
22 look into these as well about Eicher?

23 A. I can't recall whether that occurred or
24 not.

25 Q. These attachments, though, were attached

1 M. Wolanin - by Mr. Krakoff
2 to your report; is that correct?

3 A. Correct.

4 Q. And when you submitted your report, as
5 far as you know, all of those attachments
6 accompanied it?

7 A. As far as I know.

8 Q. Are those attachments routinely stapled
9 to the report? Are they known as all one
10 document?

11 A. Stapled or clipped.

12 Q. Just all one document?

13 A. Right. When I submit it, it's all one
14 document, and where it goes from there, it's
15 beyond me.

16 Q. Now, Exhibit 134 -- no. Forget that.
17 I'm not going to question you about that.
18 That's after the time period that we're focusing
19 on.

20 Exhibit 135 is a memo from
21 Superintendent Wolfe to Deputy Commissioner
22 Fulcomer dated the 23rd of February 1996. Do
23 you have that?

24 A. Got it.

25 Q. You'll see that he, Mr. Wolfe, reports,

1 M. Wolanin - by Mr. Krakoff

2 Q. Let me ask you this. Do you see the
3 next page, which is page two of Exhibit 131?

4 A. Right.

5 Q. It says, Bill, and then it's
6 underlined. Superintendent Wolfe's name is
7 William Wolfe?

8 A. Correct.

9 Q. Do you know whether it was customary for
10 Vaughn Davis when sending memos or letters on to
11 Superintendent Wolfe for Vaughn Davis to refer
12 to Superintendent Wolfe as Bill?

13 A. I can't answer that.

14 Q. So you don't know whether he -- whether
15 this was going on to William Wolfe or to
16 somebody else, is that right, this November 8,
17 1994 from the desk of Vaughn Davis?

18 A. I can't answer that.

19 Q. I'll ask Mr. Davis that. Now, let's
20 turn to the next page of this memo. You'll see
21 -- it's page three of Exhibit 131. It's
22 December 5, 1994. Do you have that?

23 A. 131, Exhibit 131?

24 Q. Yes.

25 A. The November 7th? No?

1 M. Wolanin - by Mr. Krakoff

2 Q. Well, the next one. It's the last --

3 A. Okay.

4 Q. Apparently Wolfe sent the memo to
5 Bartlett.

6 A. Correct, according to the memo.

7 Q. According to the memo, right. Let me
8 refer you to Exhibit 139. Do you see this?

9 A. Okay.

10 Q. This is a --

11 MR. KRAKOFF: Can we agree, Mr.
12 Halloran, that this exhibit was generated by
13 somebody at Cambridge Springs for this case?
14 Right?

15 MR. HALLORAN: Yes.

16 MR. KRAKOFF: Okay.

17 Q. And these are -- this is kind of a table
18 or a chart that has been prepared, and you'll
19 see on the second page of Exhibit 139, it says
20 Richard Hammers, and if you look all of the way
21 over to the far right column, I think that's
22 supposed to say results. That's the results
23 column. It didn't come out in the copying. Do
24 you see that?

25 A. Okay. I don't see Hammers.

1 M. Wolanin - by Mr. Krakoff

2 Q. Hammers is the second from the top on
3 the --

4 MR. HALLORAN: On the next page,
5 you can see it.

6 A. Okay.

7 Q. It says that OPR investigated this, and
8 then it says criminal charges filed. But they
9 weren't actually charged -- filed in Hammers'
10 case?

11 A. No.

12 Q. Did you tell Hammers that you were going
13 to contact the District Attorney's Office to
14 discuss the possibility of criminal charges?

15 A. I don't believe I did.

16 Q. Do you have any information as to why
17 Hammers resigned when he did?

18 A. I believe in the report, it listed
19 something to the effect of possible medical
20 reasons.

21 Q. Yes.

22 A. I can't give you a full --

23 Q. That was the reason that Hammers gave?

24 A. I think that's what he said. I'm not --
25 if we could pull it up in a report, we can

1 M. Wolanin - by Mr. Krakoff

2 the effect of a person losing his or her
3 pension?

4 A. I can't answer that.

5 Q. What about in your bargaining unit? Is
6 it -- I don't know if it's a bargaining unit.
7 What about in your classification; do you know?

8 A. We're listed as confidential employees.
9 I've never --

10 Q. You don't know?

11 A. I never came across that.

12 Q. Let me refer you to the last line of
13 Exhibit 139. It says Carl Zimmerman.

14 A. Okay.

15 Q. And then under the -- in the last column
16 where it says results, it says criminal charges
17 filed. Is that what happened?

18 A. That's inaccurate.

19 Q. That's inaccurate?

20 A. (Witness nodded head.)

21 Q. Is that right?

22 A. Correct. Well, it was filed through
23 civil service, and he lost the appeals.

24 Q. To the best of your -- oh, I'm sorry.

25 (Witness confers with counsel.)